

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

WEST BAY ONE, INC.

Plaintiff,

v.

ANDREA FANDRICH,

Defendant.

Civil No. 0:11-cv-00117 (ADM/FLN)

**EX PARTE MOTION TO
EXTEND TIME TO
RESPOND TO MOTION
FOR ENTRY OF DEFAULT
JUDGMENT**

Defendant Andrea Fandrich hereby moves the Court for an ex parte order granting its Motion to Extend Time to Respond to Plaintiff's Motion for Entry of Default Judgment (Doc.8). This Motion is brought ex parte, because Plaintiff's Motion is scheduled for determination tomorrow, November 8, 2011. (See Doc.11.) This Motion is based on the following facts.

The undersigned and his firm were retained as counsel for Defendant Andrea Fandrich and filed an Appearance today. (*See* Doc.13.) Prior to today, Defendant has been unrepresented. Defendant's undersigned counsel is in the process of receiving and reviewing the file in this action and needs to be afforded reasonable time for the opportunity to investigate the asserted facts and law, communicate with Defendant and prepare a response.

Also today, the undersigned sought an extension of time to respond to Plaintiff's Default Motion by emailing and leaving voice messages with Plaintiff's counsel of record

Matthew W. Moehrle, Esq. and Troy A. Poetz, Esq., Rajkowski Hansmeier, Ltd., and Nicholas A. Kurtz, Esq., Dunlap, Grubb & Weaver, PLLC. Said Plaintiff's counsels have not responded to Defendant's counsel's requests for an extension of time.

By virtue of the foregoing facts, Defendant has established good cause for her Motion to extend time respond to Plaintiff's Motion for Default Judgment. Federal Rule of Civil Procedure 55(c) provides that the Court may set aside an entry of default for good cause shown. The Eighth Circuit has routinely held that for purposes of Rule 55(c) that a defendant should be allowed to defend the action on the merits. (Citations omitted.) *Metcalf v. E.I. DuPont de Nemours & Co.*, slip copy, 2006 WL 1877069, *6 (D. Minn. 2006).

For the foregoing reasons, Defendant respectfully requests an additional 21 days in which to respond to Plaintiff's Motion for Default Judgment pursuant to L.R. 7.1(b) (2).

Respectfully submitted,

RIMAS LAW FIRM, PLLC

Dated: November 7, 2011

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